Scott. II.-27—100,000—21-5-48.

Development 195 Department

No. SERIES.

U.O. No.

Dated

[Despatch Abstract.]

Companies - The Indian Companies Act, 1913 - Change consequent on the creation of India and Pakistan - Letter from the Government of India - Communicated.

No.36(3)-Tr.(C.L.)/47
Government of India
Ministry of Commerce.
New Delhi. the 6th March, 1948.

From

K. Srinivasan, Esq., M.A.,
Under Secretary to the Government of India

To

The Secretary to the Government of Madras
Development Department, Madras

Sub: Changes consequential to the creation of the new State of the Dominion of India.

Sir,

I am directed to enclose herewith a copy of the correspondence noted in the margin for your information and transmission to the Registrars of Joint Stock Companies for their guidance

Letter from the Govt. of Bombay Finance Department No.6669/33/29312-D, dated 5-9-1947 with enclosures.
Letter to the Govt. of Bombay, Finance Department No.36(3)-Tr.(C.L.)/47, d/26-1-1948.

I have the honour to be, Sir,
Your most obedient servant,
K. Srinivasan,
Under Secretary to the Govt. of India.

No.6669/33/29312-D

Finance Department,
Bombay Castle, th September 1947.

From

B. Venkatappiah Esq., I.C.S.,
Secretary to the Government of Bombay
Finance Department

To

The Secretary to the Government of India,
Department of Commerce, New Delhi

Sub: Changes consequential to the creation of the new State of the Dominion of India.

Sir,

I am directed to forward a copy of letter No.G/101, dated 23rd August 1947, on the subject mentioned above received from the Registrar of Companies, Bombay, for consideration and issue of the necessary instructions.

Your obedient servant,

Sd/ ** **

for Secretary to the Govt. of
Finance Department

Accompaniment: Copy of Registrar's letter referred to.

No.G/101

Raja Bahadur Mansion,
32, Apollo Street, Fort,
Bombay, 23rd August 1947.

From

The Registrar of Companies, Bombay

To

The Secretary to the Government of Bombay,
Finance Department, Bombay

Sub: Changes consequential to the creation of the new State of the Dominion of India.

Kindly issue necessary directions as to the exact change arising as a consequence of the creation of the New State.

2. In particular, please direct whether I can Register Court's Order under section 15 of the Indian Companies Act for transfer of Companies from Pakistan or vice-versa. Section 15 provides for changes between provinces in British India. Can I still register changes between Pakistan and Dominion of India ?

3. Section 11 prohibits use of similar names. A company has applied for a name resembling that of a company in Pakistan. If the State of Pakistan is to be treated as a different country, then I must permit companies to adopt names identical with those in Pakistan. Can I do so ?

4. Hitherto each Registrar has been sending lists of new companies every month to Registrars in other Provinces. Should I still send such lists of Registrars of Companies in Pakistan ?

5. A company has recently applied for registration under the name "Pakistan Films Limited". Should I permit such names having regard to section 11(3) ?

6. Should companies having Registered Office in Pakistan but branches in Bombay comply with section 277 in Bombay like foreign companies ?

The favour of early directions will oblige

Sd/ **
Registrar of Companies,
Bombay

Copy of letter No.36(3)-Tr.(CL)/47, dated the 26th January 1948 from the Under Secretary to the Government of India, Ministry of Commerce, New Delhi to the Secretary to the Government of Bombay, Finance Department, Bombay.

Sub: Changes consequential to the creation of the new State of the Dominion of India

---

With reference to the correspondence ending with your letter No.6669/33/29312-D, dated the 5th September 1947, on the above subject, I am directed to say that the points raised by the Registrar in his letter No.G/101, dated the 23rd August 1947, are dealt with at seriatim below:--

(i) Any order of a competent court in India made before the 15th August 1947, confirming under Sec. 13 of the Indian Companies Act, an alteration enabling a company to change the place of its registered office from any place in India or in Pakistan continues to be effective according to its tenor

and the Registrar has no effect jurisdiction to decline to register any such alterations provided the requisite documents are filled within the prescribed time. The question of registering any such order passed by any Court on or after the 15th August 1947, does not arise as the Courts in India have no power, after that date, to sanction the transfer of the registered office from a province in India to one in Pakistan.

(ii) Under Section 11(1) of the Act, a Registrar is prohibited from registering a company with a name which is identical with or close resembles that of another company in existence. The words "another company in existence" in section 11(1), would include a company registered under the Indian Companies Act before the 15th August 1947, even though the Company's registered office may now be in Pakistan. Although there is no legal impediment to the registration of a company having a name closely resembling or identical with the name of a company registered in Pakistan after that date, to avoid confusion, the registration of companies with such names should be discouraged.

(iii) It is not necessary to send lists to the Registrar of Joint Stock Companies in Pakistan.

(iv) There is no objection under section 11(3) of the Indian Companies Act to a company being registered with the name

"PAKISTAN FILMS LTD".

(v) All companies having their registered offices in Pakistan but branches in India should have to comply with the requirements of section 277 of the Indian Companies Act.

Government of Madras

(Abstract)

Companies - The Indian Companies Act, 1913 - Changes consequent on the creation of the Dominions of India and Pakistan - Letter from the Government of India - Communicated to the Registrar of Joint Stock Companies.

Development Department

G.O.Ms.No 1388, Dated 19th March 1948
Read the following:--

Letter from the Government of India, Ministry of Commerce, No.36(3) Tr. (C.L.)/47, dated 6th March 1948.

Order:

Communicated to the Registrar of Joint Stock Companies, Madras.

(By Order of His Excellency the Governor)

Sd/ ** **
** **

To the Registrar of Joint Stock Companies, Madras
(with copy of pp.1-7 c.f.)

(True copy)

Office Assistant,
Madras Record Office.

aj/1.9

No.33(1)-Law(CL)/50
Government of India
Ministry of Commerce
New Delhi, the 4th July 1950.

From

A. T. Basu Esq.
Under Secretary to the Government of India

To

The Secretary to the Government of Madras,
Development Department, Madras.

Sub: Changes consequential to the creation of the Dominion of India.

Sir,

In continuation of this Ministry's letter No.36(3)-Tr. (CL)/47, dated the 6th March 1948 on the above subject, I am directed to enclose herewith a copy of the correspondence** noted in the margin for your information and transmission to the Registrar of Joint Stock Companies for his guidance.

Development Department.

Endorsement No.59724-K/50-1, dated the 7th July 1950.

Communicated to the Registrar of Joint Stock Companies in continuation of G.O.Ms.No.1388 Development dated 19-3-1948 for information and guidance.

To the Registrar of Joint Stock Companies (with copy of pp.1-5 c.f.)

Copy of letter No.F.2(18)/50-Dev., dated the 23rd May 1950 from the Chief Commissioner, Delhi to the Secretary to the Government of India, Ministry of Commerce, New Delhi.

Sub: Registration of company in the name of Jai Bharat Ltd.

With reference to your letter No.33(1)-Law (C.L./50, dated the 21st February 1950, on the above subject, I am directed to say that Shri Prabhat Vidyarthi Director of "Jai Bharat Ltd.." submitted the documents of the above Company in the office of the Registrar, Joint Stock Companies, Delhi for registration, but as a Company of the identical name i.e. 'Jai Bharat' was in existence in Lahore, West Pakistan since February 1943, a similar name could not be given to the Company to be registered in Delhi in view of the instruction contained in sub-paragraph (11) of the Government of India, Ministry of Commerce's letter No.36(3) Tr./47, dated the 26th January 1948 to the Government of Bombay. The Company resubmitted the documents after changing its name from "Jai Bharat" Ltd. to "Vijay Shri Ltd." and was accordingly registered in the latter name on the 23rd January 1950.

2. In this connection, I am to suggest that there should be no legal bar to a Company being registered to a name which may be identical with a similar one registered in Pakistan before partition i.e. 15th August 1947 since Pakistan is now a foreign country. I am accordingly to suggest that if the Ministry see no objection para (ii) of the Government of India, Ministry of

p.t.o.

Commerce's letter No.36(3)Tr.(C.L.)/47, dated the 26th Januar 1948, may be ~~xxx~~ cancelled in order to facilitate the giving of names to Companies in the Indian Union bearing similar nam to those registered in Pakistan.

No.33(1)-Law (CL)/50
Government of India
Ministry of Commerce
New Delhi, the 4th June, 1950.

From

A. T. Basu Esq.,
Under Secretary to the Government of India,

To

Secretary (Development) to the Chief Commissioner,
Delhi

Sub: Registration of company in the name of Jai Bharat Ltd.

Sir,

~~Xxx~~

With reference to your letter No.F.2(18)/50-Dev., dated the 23rd May 1950, on the above subject, I am directed to invite a reference to section 2-A of the Indian Companies Act as amended by the Indian Independence(Adaptation of Central Acts and Ordinances) Order, 1948 which was published in the Gazette of India Extraordinary, dated the 23rd March 1948. As provided in that section, the words "existing company" in section 11(1) of the Indian Companies Act, 1913, no longer include a company registered in any part of areas which now form the Pakistan Dominion, before the 15th August 1947. As a consequence, there is no legal impediment now to the registration in India of a company with a name identical with or closely resembling that of a company registered in Pakistan. But on account of India's past association with Pakistan it seems desirable that to avoid confusion, the registration of companies with names identical with or closely resembling those existing in Pakistan should be discouraged as far as practicable.